IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 1125 of 2005

Between:

Smt. Kadiyam Seetayamma, W/o. Late Venkataswamy, Hindu,
R/o. Duddukuru Village, Devarapalli Mandal, West Godavari District.

..... PETITIONER

AND

1. The Branch Manager, Bank of Baroda, Duddukuru Breanch,

Duddukuru, Devarapalli (M), West Godavari District.
2. The Inspector of Police, Bhimavaram Rural Circle,

Bhimavaram, West Godavari District.
3. State House Officer, Undi Police Station,

Bhimavaram, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ Order or direction, declaring the action of the respondents herein in freezing the term deposit receipts in TDR.95/B.No. 122504 dated 17-8-1998 and TDR.95/B.No. 122505, dated 17-8-1998 of the petitioner herein and her late husband Kadiyam Venkataswamy and the refusal of the payment of the amounts due together with interest after the maturity of the said term deposits by the first respondent herein i.e., the Branch Manager, Bank of Baroda, Duddukuru Branch, Devanapalli Mandal, West Godavari District, as illegal, arbitrary and unjust and consequently issue of *Writ of Mandamus* to the first respondent herein directing that the amounts due and payable together with up to date interest as per the term deposit receipts dated 17-8-1998 be paid to the petitioner herein and pass such

other order or orders

Counsel for the Petitioner: MR.I.GOPAL REDDY

Counsel for the Respondent No.: GP FOR HOME (Not present)

The Court made the following:

ORDER:

This writ petition has been filed by Kadiyam Seetayamma with a prayer to issue a writ, order or direction declaring the action of the respondents in freezing the term deposit receipts bearing TDR.95/B.No.122504, dated 17.08.1998 and TDR.95/B.No.122505, dated 17.08.1998 as arbitrary and illegal.

2. The writ petitioner and her husband Kadiyam Venkataswamy had invested an amount of Rs.1,00,000/- on 17.08.1998 in Bank of Baroda, Duddukuru Branch, West Godavari District and obtained two FDRs for Rs.50,000/- each. A crime came to be registered for the offences punishable under Sections 420, 468 and 471 read with 34 I.P.C. against Kadiyam Veera Venkata Satyanarayana, who is the son of the writ petitioner, and another viz., Battiprolu Sumitranandam. The police, after completion of investigation, filed charge sheet against B. Sumitranandam and K.V.V. Satyanarayana. The learned II Additional Judicial Magistrate of First Class, Bhimavaram took the charge sheet on file as C.C.184 of 2000. On full trila, the accused therein came to be convicted for the offences punishable under Sections 468 and 471 read with 34 I.P.C. by judgment dated 7.04.2003. Pending investigation of the crime registered against those two accused, the second respondent herein addressed a letter to the first respondent requesting to freeze the fixed deposits standing in the name of K. Venkata Swamy. In pursuance of the same, the first respondent freezed the said deposits. After disposal of the said criminal case, the writ petitioner requested the first respondent to release the freezed F.D.Rs. But the first respondent refused to release the same, on the ground that no instructions for

releasing the said F.D.Rs either from the Court or from the 2nd respondent have been received. Then the petitioner presented a petition under Section 452 Cr.P.C. before the learned II Additional Judicial Magistrate of First Class, Bhimavaram, but the same was returned, as not maintainable. Hence the writ petition.

3. Heard the learned counsel for the writ petitioner. There is no representation on behalf of the respondents. Perused the Record.

4. It is not in dispute that the writ petitioner along with her husband invested Rs.1,00,000/- in the first respondent's Bank on 17.08.1998 and secured two FDRs for Rs.50,000/- each. The maturity amount is payable to either or survivor. The learned II Additional Magistrate of First Class, Bhimavaram has not been passed any orders with regard to confiscation of the F.D.Rs amount. Even as per the letter written by the second respondent, the seizure of the amount is only for pending investigation of the Crime No.66 of 1998. Since Criminal case has been disposed of and no order confiscation has been passed as to the deposits in question, there is no impediment for the first respondent to pay the proceeds of the FDRs in question to the writ petitioner. Since the writ petitioner being sole surviving depositor, she is entitled to receive the proceeds.

5. Accordingly, the writ petition is allowed, directing the first respondent to pay the proceeds of the deposits of the FDRs bearing TDR No.95/B No.122504, dated 17.08.1998 and TDR No.95/B No.122505, dated 17.08.1998 to the writ petitioner. No order as to costs.

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(B. SESHASAYANA REDDY, J)

Date: 29.06.2005

Ksn

This Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki , the Acting Chief Justice on this the 29th day of June Two thousand and five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Branch Manager, Bank of Baroda, Duddukuru Breanch,
Duddukuru, Devarapalli (M), West Godavari District.
2. The Inspector of Police, Bhimavaram Rural Circle,
Bhimavaram, West Godavari District.
3. State House Officer, Undi Police Station,
Bhimavaram, West Godavari District.

4. Two CCs to G.P. for Home, High Court Buildings, Hyderabad (OUT).

5. 2 CD copies

6. 1 CC to MR.GOPAL REDDY

*Form-NIC-OGS/WP{**SPJS**}*